

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Gary K. Michelson, M.D.)	
Serial No.: (Cont. of 09/772,309))	(Group Art Unit: 3738)
Filed: September 23, 2003)	(Examiner: T. Barrett)
For: EXPANDABLE PUSH-IN ARCUATE)	
INTERBODY SPINAL FUSION IMPLANT)	
WITH TAPERED CONFIGURATION)	
DURING INSERTION)	

MS PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed concurrently with the filing of the above-referenced application.

Copies of the listed documents were previously submitted in prior Application No. 09/772,309, filed January 29, 2001, upon which applicant relies for the benefits provided in 35 U.S.C. § 120.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Applicant also brings to the Examiner's attention the following U.S. co-pending applications and issued patent of Applicant; the claims and drawings of which were previously submitted in prior Application No. 09/772,309, filed January 29, 2001:

NOT FOR PUBLICATION			
Examiner Initial	Application Number	Filing/Issue Date	Publication/ Patent No.
	09/612,188	07JUL2000	N/A
	10/011,652	06NOV2001	WO01/56513
	09/574,858	19MAY2000	N/A
	09/551,964	31DEC2002	6,500,205

Applicant respectfully requests that the Examiner consider the documents listed above, indicate that they were considered by making appropriate notations in the appropriate column, and return a copy of this sheet to the Applicant.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 23, 2003

By: 

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Substitut for FORM PTO-1449			Attorn y D cket Number 101.0092-02000		Customer No. 22882	
INFORMATION DISCLOSURE CITATION IN AN APPLICATION			Applicant Gary K. Michelson, M.D.		Application Number (Cont. of 09/772,309)	
(Use several sheets if necessary) Sh et <u>1</u> of <u>3</u>			Filing Dat September 23, 2003		Group Art Unit (3738)	Examiner (T. Barrett)
U.S. PATENT DOCUMENTS						
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
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	4,349,921	09/1982	Kuntz			
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	4,636,217	01/1987	Ogilvie et al.			
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	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
	2,151,481	03/1995	Canada			N/A
	2 717 068	09/1995	France			Yes
	2 771 282	05/1999	France			Abstract Only
	44 16 605 C1	06/1995	Germany			Yes
	1424826 A1	09/1988	Soviet Union			Yes
	WO 96/27348	09/1996	WIPO			Abstract Only
	WO 97/00054	12/1997	WIPO			N/A
	WO 98/34552	08/1998	WIPO			N/A
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	WO 00/35388	06/2000	WIPO			N/A
	WO 00/35389	06/2000	WIPO			N/A
	WO 00/12033	03/2000	WIPO			N/A
	WO 00/66045	11/2000	WIPO			N/A
	WO 00/74605	12/2000	WIPO			Abstract Only
	WO 00/78253	12/2000	WIPO			N/A

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	European Search Report for Application EP 01 91 0418, dated April 17, 2003.

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.